

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY DESHAWN HARRIS, JR.,

Petitioner,

v.

NICOLE MORRISEY O'DONNELL,

Respondent.

CASE NO. 2:23-CV-424-BHS-DWC

ORDER DENYING REQUEST FOR
COURT APPOINTED COUNSEL

The District Court has referred this action filed under 28 U.S.C. § 2254 to United States Magistrate Judge David W. Christel. Currently pending in this action is Petitioner Timothy Deshawn Harris, Jr.'s Request for an Attorney. Dkt. 7.

There is no right appointed counsel in cases brought under 28 U.S.C. § 2254 unless an evidentiary hearing is required or such appointment is necessary for the effective utilization of discovery procedures. *See McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court may appoint

1 counsel “at any stage of the case if the interest of justice so require.” *Weygandt*, 718 F.2d at 954.
2 In deciding whether to appoint counsel, the Court “must evaluate the likelihood of success on the
3 merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the
4 complexity of the legal issues involved.” *Id.*

5 Here, the Court does not find good cause for granting leave to conduct discovery; thus,
6 counsel is not necessary to effectively utilize discovery. Further, the Court has not determined
7 an evidentiary hearing is required. *See* Rules Governing Section 2254 Cases in the United States
8 District Courts 6(a) and 8(c). Moreover, Petitioner effectively articulated his grounds for relief
9 raised in the Petition, the grounds are not factually or legally complex, and Petitioner has not
10 shown he is likely to succeed on the merits of this case. *See* Dkt. 1-1. Thus, Petitioner has not
11 shown the interests of justice require the Court to appoint counsel at this time.

12 As Petitioner has not shown appointment of counsel is appropriate, the request for
13 counsel is denied without prejudice.

14 Dated this 3rd day of May, 2023.

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17 David W. Christel
18 Chief United States Magistrate Judge
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